IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2007

CORAM:

THE HON"BLE MR.JUSTICE M.CHOCKALINGAM

CRP.NPD.NOS.560,561 AND 932 OF 2006

CRP.NPD.Nos.560 and 561 of 2006:

M.V.Damodaran ...Petitioner in both CRPs/Tenant

Vs.

1.V.Venugopal
2.V.Manoharan
3.V.Jayasankar
4.V.Ganesh ...Respondents in both CRPs/LRs of the Landlord

These Civil Revision Petitions are filed under section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act 18/60 as amended by Act 23/73 & Act 1/80 against the order and decretal order in RCA.Nos.1383 of 2004 and 197 of 2005 respectively on the file of VIII Judge, Court of Small Causes, Madras (Rent Control Appellate Authority) dated 30.8.2005 modifying the order passed in RCOP.No.806 of 2000 dated 4.10.2004 on the file of XV Judge, Small Causes Court, Chennai.

CRP.NPD.NO.932 of 2006:

V.Radhabai(since deceased)
by legal representatives
1.T.Venugopal
2.V.Manoharan
3.V.Jayashankar
4. V.Ganesh ...Petitioner/LRs of the Landlord

Vs.

M.V.Damodaran ...Respondent/Tenant

This Civil Revision petition has been filed under section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act 18/60 as amended by Act 23/73 & Act 1/80 against the decree and judgment dated 30.8.2005 in RCA.No.1383 of 2004 on the file of VIII Judge, Court of Small Causes, Madras modifying the order and decree order dated 4.10.2004 in RCOP.No.806 of 2000 on the file of XV Court, Small Causes, Madras.

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For Petitioners : Mr.V.P.Raman
in CRP.932/06 and Respondents in CRP.560 & 561/06
For respondent :Mr.V.K.Sathiamoorthy
in CRP.932/06 and for the petitioner in CRP.560 & 561/06

O R D E R

This order shall govern these three CRPs. viz. 560,561 of 2006 at the instance of the tenant and CRP.No.932 of 2006 at the instance of the landlord.

2. Originally the landlord filed RCOP.No.806 of 2000 under the Tamil Nadu (Buildings and Lease Rent Control) Act (hereinafter referred to as the Act) for fixation of fair rent. On enquiry, the rent was fixed by the rent Controller at Rs.17,364/- p.m. Aggrieved tenant took it on appeal in RCA.No.197 of 2005, while the landlord took it on appeal in RCA.No.1383 of 2004. The appeal by the tenant was dismissed, while the appeal filed by the landlord was allowed by re-fixing the fair rent from Rs.17,364/- to Rs.18,881/-. Aggrieved over the same, the tenant took two revisions viz. CRP.Nos.560 and 561 of 2006, while the landlord has preferred CRP.No.932 of 2006. Thus, three Civil Revision Petitions have arisen before this Court.

3. Concededly, the revision petitioner in CRP.No.932 of 2006 is the absolute owner and the landlady of the premises No.180, Purasalwalkam High Road, Kellys, Madras-10, that the ground floor portion of the premises was let out to the respondent/tenant in the year 1983 for business purpose where the tenant is running a Chinese Restaurant, that originally the rent was paid as agreed between the parties at the rate of Rs.5,856/-. The landlady calculated the fair rent at Rs.31,260/- filed RCOP.No.806 of 2000 alleging that the property is in a prime locality and the area occupied by the tenant is 1500 sq.ft. Taking into consideration the area where the property is situated and the nature of the building being occupied and also applying the provisions of the Act, the tenant was directed to pay Rs.31,260/-. The application was vehemently contested by the respondent therein who is the revision petitioner/tenant in CRP.Nos.560 and 561 of 2006. The Rent Controller, on enquiry, fixed the fair rent at. Rs.17,364/-. Aggrieved over the same, RCA.No.1383 of 2004 at the instance of the landlord and RCA.No.197 of 2005 at the instance of the tenant were preferred. Both the appeals were taken up for joint enquiry. The appellate authority, on enquiry of the appeals, re-fixed the fair rent at

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Rs.18,881/- and hence the above CRPs. have arisen as stated above.

4. When the Civil Revision petitions were taken up for consideration, it is brought to the notice of the Court that the landlady originally filed an application for eviction of the tenant on the ground of subletting and additional accommodation and both the Rent Controller and Rent Control Appellate Authority denied the relief by rejecting her claim. Thereafter, she filed the Civil Revision petition in CRP.No.505 of 2003 before this Court and on enquiry, this Court ordered eviction by allowing the Civil revision petition. Aggrieved over the same, the tenant took it on appeal and now it is at the admission stage before the Apex Court.

5. When the matter was taken up for enquiry, it is submitted by both sides that the parties have arrived at a settlement whereby they agreed that from the time of filing of the RCOP.No.806 of 2000, the tenant has to pay the monthly rent at the rate of Rs.22,000/- as per the English Calendar month, excepting Rs.2,000/- which is payable by him towards maintenance and water charges and the landlord also amenable to receive the said amount. Thus now the rent is fixed at Rs.22,000/- per month from the time when RCOP.No.806 of 2000 was filed except Rs.2,000/- towards maintenance and water charges . It is also made clear that both the parties further agree that they are bound by the orders passed in the Special Leave Petition pending before the Apex Court . The revision petitioner/tenant in CRP.Nos.560 and 561 of 2006 undertakes to make the payment of the entire arrears as calculated above, within a period of twelve months i.e. in four equal monthly instalments and get proper receipts from the landlord. The amount that has already been deposited by the tenant have got to be given credited to in the total arrears of amount, as found above.

6. With the above observation, the Civil revision petitions are disposed of. No costs.

23.07.2007

These Civil Revision Petitions having been posted on 24.7.2007 under the caption 'Being Mentioned' pursuant to the order of this court dated 23.7.2007 and made herein and in the presence of the aforesaid advocates, the Court made the following order:-

The matter is listed for being mentioned today.

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2. When the above matter was called, learned counsel for the petitioner would submit that in paragraph 5 of this Court order, the amount fixed at Rs.2,000/- towards maintenance and water charges may be mentioned as Rs.2,000/- towards maintenance and electric charges for pumping water from the sump. It is also further submitted that the commencement of the first instalment may be mentioned as from 1st of August, 2007.

3. Therefore, in paragraph 5 of the above order, the words "maintenance and water charges " shall be deleted and "maintenance and electric charges for pumping water from the sump" may be inserted, wherever it occurs. It is to be added at the end of the order that the commencement of the first instalment starts from First of August, 2007".

24.07.2007

VJY

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Rent Control Appellate Authority,
(VIII Judge, Court of Small Causes)
Madras.

2. The Rent Controller,
(XV Judge, Court of Small Causes)
Madras.

3. The Record Keeper,
VR Section, High Court, Madras.

+ 1 cc to Mr. V. P. Raman, Advocate SR No. 45629
+ 2 ccs to Mr. C. Rajan, Advocate SR No. 7563

CRP.NPD.NOS.560,561
AND 932 OF 2006

NG(CO)
SR/31.7.2007

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